

October 31, 2017

From:

Alex Nguyen
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Santa Clara, CA 95055

To:

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
Via ECFS and e-mail

Re: *Alex Nguyen v. Cellco Partnership & Affiliated Entities d/b/a Verizon Wireless*,
Proceeding No. 16-242, File No. EB-16-MD-003.

Dear Ms. Dortch:

In my July 26, 2016 complaint, I repeatedly called out Verizon for disabling the FM chips that are already installed in smartphones the carrier provided to customers.¹ The National Association of Broadcasters (NAB) noted:

Virtually all smartphones are manufactured with hardware capable of receiving free FM radio signals. However, one major U.S. wireless carrier - Verizon - blocks this feature that can save consumers battery life and data charges, while also providing a critical lifeline during times of emergency.²

When wireless networks go down during a natural disaster, smartphones with activated FM chips can allow Americans to get vital access to life-saving information. The current chairman of the Commission specifically pointed out the public safety benefits:

You could make a case for activating chips on public safety grounds alone. The former head of our Federal Emergency Management Administration has spoken out in support of this proposal. The FCC has an expert advisory panel on public safety issues that has also advocated enabling FM radio chips on smartphones. It

1 July 26, 2016 Complaint § V.A.

2 NAB, *Expand Access to Emergency Information: Unlock FM*,
<https://web.archive.org/web/20161028152608/https://www.nab.org/advocacy/issue.asp?id=2354&issueid=1082>

pointed out that, “[h]aving access to terrestrial FM radio broadcasts, as opposed to streaming audio services, may enable smartphone users to receive broadcast-based EAS alerts and other vital information in emergency situations—particularly when the wireless network is down or overloaded.”³

In fact, the FCC's existing rules mandate that Verizon not block features on handsets it provides to customers,⁴ and Verizon claimed it would abide by these obligations.⁵

However, Verizon shipped HTC's One M9 smartphones with a different software load that “purposefully blocks” FM radio. (Other carriers left the FM chips included by HTC enabled.)

It has recently been determined that the newly released successor model, the HTC One M9, is being shipped by Verizon with a different software load, which purposefully blocks the user accessing the device's FM radio capability via a downloaded app.... This new version of the Verizon HTC One cannot be activated by downloading an Android FM radio app. (Meanwhile, other carriers' versions of the M9 mirror their provisioning of the M8.)⁶

FM radio capabilities on HTC's older One M8 smartphones were left functional by all carriers, including Verizon ... at first. Although Verizon blocked HTC from preloading its first-party radio app, customers could still use third-party radio apps like NextRadio⁷ ... until Verizon pushed a software update to retroactively block them:

HTC includes FM support in several of their devices regardless of wireless carrier.... NextRadio works on Marshmallow. We adhered to Google's Marshmallow compatibility guidelines, and worked with device manufacturers to ensure the app performs well. Unfortunately, when Verizon pushed the

3 FCC Chairman Pai Remarks at Future of Radio and Audio Symposium, Washington, DC (February 16, 2017)

4 See 47 CFR §§ 8.5 (the “no blocking” rule) and 27.16(e) (“No licensee may disable features on handsets it provides to customers”).

5 Jim Gerace, <https://web.archive.org/web/20090106122936/http://policyblog.verizon.com/PolicyBlog/Blogs/PolicyBlog/JimGerace9/461/Open-Development-and-700MHz.aspx> (May 6, 2008) (“Of course we'll abide by those rules.”)

6 NAB, *Radio TechCheck*, <https://www.nab.org/xert/sciTech/2015/RD05182015.pdf>

7 *Id.* [“Verizon ships it with no FM app (and no mention in the manual that the phone has FM capability). However, on any version of the phone, the NextRadio app (or other similar apps) can be downloaded and the phone instantly attains hybrid FM capability.”]

Marshmallow update to their M8 phones, they appear to have removed the FM hardware API, so NextRadio is no longer able to control the FM receiver chip. Several other carriers also sell the M8, and have also updated them to Android Marshmallow. NextRadio still works on the M8 sold through all carriers except Verizon. The FM API can't be included in the NextRadio app, and it can't be added back once it has been removed. So there is no way to restore NextRadio support to Verizon's M8s.⁸

Similarly, Verizon disabled FM radio on Samsung's Galaxy S5/S6 and LG's G4/G5/V20 smartphones.⁹ Verizon disabled FM radio on Samsung's Galaxy S7 too, but after I filed my complaint, Verizon pushed a software update that re-enabled FM radio on Samsung's Galaxy S7, didn't disable FM radio on LG's G6, and removed from its Web site its blatantly false claim that manufacturers going through Verizon's certification process didn't "choose to include" FM radio capabilities.¹⁰

But access to emergency information remains blocked on HTC's One M8/M9, Samsung's Galaxy S5/S6, LG's G4/G5/V20, and other smartphones Verizon provided to customers. That's why I've asked the Commission to expeditiously enforce its existing rules. Given the devastation

8 NextRadio, <https://nextradioapp.zendesk.com/hc/en-us/articles/210009633-I-have-an-HTC-One-M8-on-Verizon-Why-did-NextRadio-stop-working-> (May 17, 2017)

9 Jared Dipane, <https://www.androidcentral.com/here-are-things-verizon-lg-g4-doesnt-have-other-variants-do> (June 5, 2015) ("Some of the features that are missing from the Verizon version include ... FM Radio."); David Ruddock, <http://www.androidpolice.com/2016/04/29/5-things-i-love-about-the-lg-g5/> ("Yep: FM radio is a legitimately useful add-on, and one that basically every smartphone should support, but that has nearly been destroyed by the profit motives of the music streaming and wireless carrier industries. LG's unlocked G5s should all ship with FM radio enabled as far as I know - my unlocked EU version has the FM radio app installed by default. Unfortunately, I already know Verizon has disabled it on their G5.")

10 Verizon, *Company Policies*, <https://web.archive.org/web/20160907012045/https://www.verizon.com/about/responsibility/policies> ("There are no requirements that prevent Verizon's handset suppliers from providing an FM radio chip in their devices.... Verizon will continue to support the sale of devices from manufacturers that choose to include an FM radio chip. If this is a feature that receives greater consumer demand, more manufacturers will likely choose to include it.") [Actually, manufacturers included FM radio capabilities in their devices, but Verizon chose to disable them.]

wrought by Hurricanes Harvey, Irma, and Maria and recent wildfires in California,¹¹ it is time to step up to the plate and put the safety of the American people first. As the *Sun-Sentinel* of South Florida put it, “Do the right thing.... Lives depend on it.”

Sincerely,

A handwritten signature in black ink, appearing to read 'Alex Nguyen', written in a cursive style.

Alex Nguyen

Cc:

Tamara Preiss (VP, Federal Regulatory and Legal Affairs, Verizon)
David L. Haga (Counsel for Verizon)
Ann Rakestraw (Counsel for Verizon)
Michael Engel (FCC)
Rosemary McEnery (FCC)
Lisa Saks (FCC)

¹¹ Erika Aguilar, <https://ww2.kqed.org/news/2017/10/10/fire-victims-frustrated-by-lack-of-wireless-connectivity/>